

REMARKS

This amendment is in response to the office action mailed May 9, 2007. Claims 1, 3 and 4 are cancelled without prejudice. Claim 25 is newly added. Claims 2 and 5-25 are now pending in this application.

Claim Objections

Claim 6 is objected to because "WPC" is not explained in the claim. In response WPC is deleted from the claim.

Claim 14 is objected to because a) is used improperly. In response a) is deleted.

Claim 19 is objected to because of its multiple dependency (37 CFR 1.75 (c)). In response the claim has been amended to remove the multiple dependencies.

Claim Rejections under 35 USC 112

Claims 1-2, 4-5, 10, 13-14, 17 and 21-22 are rejected under 35 USC 112, second paragraph, as being indefinite for failure to particular point out and distinctly claim the subject matter which applicant regard as the invention.

In response applicants attorney has reviewed the rejections in detail and have deleted Claims 1 and 2 without prejudice. The other rejected claims are amended to remove any indefiniteness that may have been in the claims.

With respect to claim 5, the claim is amended to remove the language that the Examiner identifies as making the claim indefinite.

Claim Rejections Under 35 USC 102

Claims 1-4, and 6-24 are rejected under 35 USC 102 (e) as being anticipated by US 2003/0214949A1 (Shaikli).

Before addressing the rejection applicants summarize the law relating to rejection under 35 USC 102 (anticipation). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single reference. *Verdegaal Bros. v Union Oil Co. of California*, 814 F.2d 628,631, 2U.S.P.Q. 2d 1051, 1053 (Fed.Cir. 1987). Furthermore, the identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 89U.S.P.Q.2d 1913, 1920 (Fed. Cir.1989). It is applicants' contention these standards are not met in the case at hand. Therefore, the claims are not anticipated.

Rejection of Claims 1-4 and 6-13

In response to this rejection, Claims 1, 3 and 4 are cancelled without prejudice.

Claims 2 and 6-13 now depends on newly added Claim 25. Therefore, patentability of independent Claim 25 over the art of record will first be discussed. It is applicants' contention Shaikli does not disclose, expressly or inherently, a CAM (Contents Address Memory) structured as recited in Claim 25. In fact Shaikli does not even disclose a CAM much less one that is structured as set forth in Claim 25. Instead, Shaikli (Figure 6 and paragraphs 0050-0071) shows and describes memory 602 and memory table 310. No teachings of a CAM could be found anywhere in this reference. As a consequence, every element of Claim 25 is not found in a single reference. Therefore, Claim 25 is not anticipated.

Likewise, dependent Claims 2 and 6–13 are not anticipated due to dependency on Claim 25. A dependent claim inherits the limitation of the claim on which it depends. Therefore, these dependent claims are not anticipated.

Furthermore, Claims 5, 9, 12 and 13 are patentable distinct.

Regarding Claim 5, the claim calls for the number of source priority registers and associated valid-bit latches to be equal to the number of sources providing packets multiply by number of priority levels. This feature could not be found in Shaikli. Therefore, this claim is not anticipated.

Regarding claims 9 and 12, these claims calls for handling unicast and multicast data packets. No such teachings are disclosed in Shaikli. At best Shaikli can only handle unicast data packets. As a consequence, Claims 9 and 12 are not anticipated.

Regarding claim 13, the claim calls for means for numbering multicast data packets.....No such element is found in Shaikli. Therefore, this claim is not anticipated.

Applicants are aware of the Examiners assertions - indicating 401 (Shaikli) as means for numbering multicast data packets - set forth on page 7 of the Office Action. Applicants respectfully disagree with the assertions and direct the Examiner's attention to Figure 4 and paragraphs 0031 through 0034 that clearly states 401 as a memory and table. How can this ever be construed as a means for numbering multicast data packets as set forth in Claim 13. It is applicants' assertion that construing this teachings in Shaikli as the means set forth in Claim 13 appears to be error.

Rejection of Claims 14-20

With respect to claim 14, it is amended as shown above. In view of this amendment, applicants contends Shaikli does not disclose—using a source identifier and a priority level to point to a corresponding source–priority register that contains a packet sequence number and a packet buffer location identifier of a previously receive data packet.

No such teachings are found in Shaikli. Therefore, the claim is not anticipated.

Likewise, dependent claims 15-20 inherit the above limitations of claim 14. As a consequence, claims 15-20 are not anticipated.

Claim 21 is a system claim in which a controller is programmed to practice the limitation, set forth, of claim 14. As with the method in claim 14, the controller practicing this limitation is not found in Shaikli. Therefore, Claim 14 is not anticipated.

Applicants are aware of the Examiner's position that this limitation (identified with Claim 14, above) is found in Shaikli (see page 9 and 10 of the office action). To support this position the Examiner points to paragraphs 0041, 0054-0057, 0059, 0042 and 0047. A reading of the cited reference, including the paragraphs relied on by the Examiner, does not disclose this limitation. Shaikli does show and teach four registers and table 310 as part of the reordering system. However, there are no clear teachings as to how a register is selected. Any conclusion that the register is selected in accordance with the way its done in the cited limitation of Claim 21 is purely speculative. As the case law indicates a rejection under 35 USC 102(e) must be based on a finding of the claimed

element in the reference. Mere speculation as is seemed to be the case here is not enough. As a consequence, there are no specific findings of this limitation in the reference. Therefore, the claim is not anticipated.

Claim 22 is a computer program product claim having the same limitation as is found in Claims 14 and 21. As a consequence, the argument set forth above relative to this limitation is equally applicable to Claim 22 and is incorporated herein by reference. Therefore, this claim is not anticipated by Shaikli.

Claim 23 calls for at least one source priority register identifying at least one packet by source, priority, packet sequence number and location of packet in said buffer. This limitation is not found in Shaikli. Even though Shaikli shows four registers 606, 608, 610 and 612 (see Figure 6 and paragraph 0054) none identify a packet by the parameters set forth in Claim 23, element b). As a consequence, Claim 23 is not anticipated.

With respect to Claim 24. It inherits the limitation of Claim 23. Therefore, claim 24 is not anticipated.

Conclusion

It is believed the present amendment answers all the issues raised by this Office Action. Reconsideration is hereby requested and an early allowance of all claims is solicited.

Respectfully submitted,

/Joscelyn G. Cockburn/

Date: August 8, 2007

Joscelyn G. Cockburn
Registration No.: 27069
IBM Corporation
IP Law Dept. YXSA/Bldg. 002
PO Box 12195
Research Triangle Park, NC 27709
Phone: (919) 543-9036
Fax: (919) 254-2649